

pared with delivery of written records via the United States Postal Service and private express mail services. The Secretary shall submit a report to the Congress regarding the results of such inquiry by the conclusion of such 18-month period.

It was decided in the { Yeas ..... 418  
affirmative ..... } Nays ..... 2

¶129.18

[Roll No. 577]

AYES—418

Abercrombie	Davis (IL)	Horn
Ackerman	Davis (VA)	Hostettler
Aderholt	Deal	Houghton
Allen	DeFazio	Hoyer
Andrews	DeGette	Hulshof
Archer	Delahunt	Hunter
Armey	DeLauro	Hyde
Bachus	DeLay	Inslee
Baird	DeMint	Isakson
Baker	Deutsch	Istook
Baldacci	Diaz-Balart	Jackson (IL)
Baldwin	Dicks	Jackson-Lee
Ballenger	Dingell	(TX)
Barcia	Dixon	Jefferson
Barr	Doggett	Jenkins
Barrett (NE)	Dooley	John
Barrett (WI)	Doolittle	Johnson (CT)
Bartlett	Doyle	Johnson, E. B.
Barton	Dreier	Johnson, Sam
Bass	Duncan	Jones (NC)
Bateman	Dunn	Jones (OH)
Becerra	Edwards	Kanjorski
Bentsen	Ehlers	Kaptur
Bereuter	Ehrlich	Kasich
Berkley	Emerson	Kelly
Berman	Engel	Kennedy
Berry	English	Kildee
Biggert	Eshoo	Kilpatrick
Bilbray	Etheridge	Kind (WI)
Bilirakis	Evans	King (NY)
Bishop	Everett	Kingston
Blagojevich	Ewing	Kleczka
Bliley	Farr	Klink
Blumenauer	Fattah	Knollenberg
Blunt	Finler	Kolbe
Boehlert	Fletcher	Kucinich
Boehner	Foley	Kuykendall
Bonilla	Forbes	LaFalce
Bonior	Ford	LaHood
Bono	Fossella	Lampson
Borski	Fowler	Lantos
Boswell	Frank (MA)	Larson
Boucher	Franks (NJ)	Latham
Boyd	Frelinghuysen	LaTourette
Brady (PA)	Frost	Lazio
Brady (TX)	Gallegly	Leach
Brown (FL)	Ganske	Lee
Brown (OH)	Gejdenson	Levin
Bryant	Gekas	Lewis (CA)
Burr	Gibbons	Lewis (GA)
Burton	Gilchrest	Lewis (KY)
Buyer	Gillmor	Linder
Callahan	Gilman	Lipinski
Calvert	Gonzalez	LoBiondo
Camp	Goode	Lofgren
Campbell	Goodlatte	Lowe
Canady	Goodling	Lucas (KY)
Cannon	Gordon	Lucas (OK)
Capps	Goss	Luther
Capuano	Graham	Maloney (CT)
Cardin	Granger	Maloney (NY)
Carson	Green (TX)	Manzullo
Castle	Green (WI)	Markey
Chabot	Greenwood	Martinez
Chambliss	Gutierrez	Mascara
Chenoweth-Hage	Gutknecht	McCarthy (MO)
Clay	Hall (OH)	McCarthy (NY)
Clayton	Hall (TX)	McCollum
Clement	Hansen	McCrery
Clyburn	Hastings (FL)	McDermott
Coble	Hastings (WA)	McGovern
Collins	Hayes	McHugh
Combest	Hayworth	McInnis
Conyers	Hefley	McIntosh
Cook	Herger	McIntyre
Cooksey	Hill (IN)	McKeon
Costello	Hill (MT)	McKinney
Cox	Hilleary	McNulty
Coyne	Hilliard	Meehan
Cramer	Hinchey	Meeks (NY)
Crane	Hinojosa	Menendez
Crowley	Hobson	Metcalfe
Cubin	Hoeffel	Mica
Cummings	Hoekstra	Millender
Cunningham	Holden	McDonald
Danner	Holt	Miller (FL)
Davis (FL)	Hooley	Miller, Gary

Miller, George	Riley	Stump
Minge	Rivers	Stupak
Mink	Rodriguez	Sununu
Moakley	Roemer	Sweeney
Mollohan	Rogan	Talent
Moore	Rogers	Tancredo
Moran (KS)	Rohrabacher	Tanner
Moran (VA)	Ros-Lehtinen	Tauscher
Morella	Rothman	Tauzin
Murtha	Roukema	Taylor (MS)
Myrick	Roybal-Allard	Taylor (NC)
Nadler	Royce	Terry
Napolitano	Rush	Thomas
Neal	Ryan (WI)	Thompson (CA)
Nethercutt	Ryun (KS)	Thompson (MS)
Ney	Sabo	Thornberry
Northup	Salmon	Thune
Norwood	Sanchez	Thurman
Nussle	Sanders	Tierney
Oberstar	Sandlin	Toomey
Obey	Sanford	Towns
Oliver	Sawyer	Trafficant
Ortiz	Saxton	Turner
Ose	Schaffer	Udall (CO)
Owens	Schakowsky	Udall (NM)
Oxley	Scott	Upton
Packard	Sensenbrenner	Velazquez
Pallone	Serrano	Visclosky
Pastor	Sessions	Vitter
Payne	Shadegg	Walden
Pease	Shaw	Walsh
Pelosi	Shays	Wamp
Peterson (MN)	Sherman	Waters
Peterson (PA)	Sherwood	Watkins
Petri	Shimkus	Watt (NC)
Phelps	Shows	Watts (OK)
Pickering	Shuster	Waxman
Pickett	Simpson	Weiner
Pitts	Sisisky	Weldon (FL)
Pombo	Skeen	Weldon (PA)
Pomeroy	Skelton	Weller
Porter	Slaughter	Wexler
Portman	Smith (MI)	Weygand
Price (NC)	Smith (NJ)	Whitfield
Pryce (OH)	Smith (WA)	Wicker
Quinn	Snyder	Wilson
Radanovich	Souder	Wise
Rahall	Spratt	Wolf
Ramstad	Stabenow	Woolsey
Rangel	Stark	Wu
Regula	Stearns	Wynn
Reyes	Stenholm	Young (AK)
Reynolds	Strickland	Young (FL)

NOES—2

Paul Vento

NOT VOTING—13

Coburn	Largent	Smith (TX)
Condit	Matsui	Spence
Dickey	Meek (FL)	Tiahrt
Gephardt	Pascrell	
Hutchinson	Scarborough	

So the amendment was agreed to.

After some further time,

¶129.19 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment in the nature of a substitute submitted by Mr. DINGELL:

Strike out all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Millennium Digital Commerce Act”.

**SEC. 2. FINDINGS.**

The Congress makes the following findings:

(1) The growth of electronic commerce and electronic government transactions represent a powerful force for economic growth, consumer choice, improved civic participation and wealth creation.

(2) The promotion of growth in private sector electronic commerce through Federal legislation is in the national interest because that market is globally important to the United States.

(3) A consistent legal foundation, across multiple jurisdictions, for electronic commerce will promote the growth of such transactions, and that such a foundation should

be based upon a simple, technology neutral, nonregulatory, and market-based approach.

(4) The Nation and the world stand at the beginning of a large scale transition to an information society which will require innovative legal and policy approaches, and therefore, States can serve the national interest by continuing their proven role as laboratories of innovation for quickly evolving areas of public policy, provided that States also adopt a consistent, reasonable national baseline to eliminate obsolete barriers to electronic commerce such as undue paper and pen requirements, and further, that any such innovation should not unduly burden inter-jurisdictional commerce.

(5) To the extent State laws or regulations do not provide a consistent, reasonable national baseline or in fact create an undue burden to interstate commerce in the important burgeoning area of electronic commerce, the national interest is best served by Federal preemption to the extent necessary to provide such consistent, reasonable national baseline or eliminate said burden, but that absent such lack of a consistent, reasonable national baseline or such undue burdens, the best legal system for electronic commerce will result from continuing experimentation by individual jurisdictions.

(6) With due regard to the fundamental need for a consistent national baseline, each jurisdiction that enacts such laws should have the right to determine the need for any exceptions to protect consumers and maintain consistency with existing related bodies of law within a particular jurisdiction.

(7) Industry has developed several electronic signature technologies for use in electronic transactions, and the public policies of the United States should serve to promote a dynamic marketplace within which these technologies can compete. Consistent with this Act, States should permit the use and development of any authentication technologies that are appropriate as practicable as between private parties and in use with State agencies.

**SEC. 3. PURPOSES.**

The purposes of this Act are—

(1) to permit and encourage the continued expansion of electronic commerce through the operation of free market forces rather than proscriptive governmental mandates and regulations;

(2) to promote public confidence in the validity, integrity and reliability of electronic commerce and online government under Federal law;

(3) to facilitate and promote electronic commerce by clarifying the legal status of electronic records and electronic signatures in the context of contract formation;

(4) to facilitate the ability of private parties engaged in interstate transactions to agree among themselves on the appropriate electronic signature technologies for their transactions; and

(5) to promote the development of a consistent national legal infrastructure necessary to support of electronic commerce at the Federal and State levels within areas of jurisdiction.

**SEC. 4. DEFINITIONS.**

In this Act:

(1) **ELECTRONIC.**—The term “electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) **ELECTRONIC AGENT.**—The term “electronic agent” means a computer program or an electronic or other automated means used to initiate an action or respond to electronic records or performances in whole or in part without review by an individual at the time of the action or response.

(3) **ELECTRONIC RECORD.**—The term “electronic record” means a record created, gen-

erated, sent, communicated, received, or stored by electronic means.

(4) **ELECTRONIC SIGNATURE.**—The term “electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(5) **GOVERNMENTAL AGENCY.**—The term “governmental agency” means an executive, legislative, or judicial agency, department, board, commission, authority, or institution of the Federal Government or of a State or of any county, municipality, or other political subdivision of a State.

(6) **RECORD.**—The term “record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(7) **TRANSACTION.**—The term “transaction” means an action or set of actions relating to the conduct of commerce, between 2 or more persons, neither of which is the United States Government, a State, or an agency, department, board, commission, authority, or institution of the United States Government or of a State.

(8) **UNIFORM ELECTRONIC TRANSACTIONS ACT.**—The term “Uniform Electronic Transactions Act” means the Uniform Electronic Transactions Act as provided to State legislatures by the National Conference of Commissioners on Uniform State Law in the form or any substantially similar variation.

#### SEC. 5. INTERSTATE CONTRACT CERTAINTY.

(a) **IN GENERAL.**—In any commercial transaction affecting interstate commerce, a contract may not be denied legal effect or enforceability solely because an electronic signature or electronic record was used in its formation.

(b) **METHODS.**—Parties to a transaction are permitted to determine the appropriate electronic signature technologies for their transaction, and the means of implementing such technologies.

(c) **PRESENTATION OF CONTRACTS.**—Notwithstanding subsection (a), if a law requires that a contract be in writing, the legal effect or enforceability of an electronic record of such contract shall be denied under such law, unless it is delivered to all parties to such contract in a form that—

(1) can be retained by the parties for later reference; and

(2) can be used to prove the terms of the agreement.

(d) **SPECIFIC EXCLUSIONS.**—The provisions of this section shall not apply to a statute, regulation, or other rule of law governing any of the following:

(1) The Uniform Commercial Code, as in effect in a State, other than section 1-107 and 1-206, article 2, and article 2A.

(2) Premarital agreements, marriage, adoption, divorce or other matters of family law.

(3) Documents of title which are filed of record with a governmental unit until such time that a State or subdivision thereof chooses to accept filings electronically.

(4) Residential landlord-tenant relationships.

(5) The Uniform Health-Care Decisions Act as in effect in a State.

(e) **ELECTRONIC AGENTS.**—A contract relating to a commercial transaction affecting interstate commerce may not be denied legal effect or enforceability solely because its formation involved—

(1) the interaction of electronic agents of the parties; or

(2) the interaction of an electronic agent of a party and an individual who acts on that individual's own behalf or as an agent, for another person.

(f) **INSURANCE.**—It is the specific intent of the Congress that this section apply to the business of insurance.

(g) **APPLICATION IN UETA STATES.**—This section does not apply in any State in which the Uniform Electronic Transactions Act is in effect.

#### SEC. 6. PRINCIPLES GOVERNING THE USE OF ELECTRONIC SIGNATURES IN INTERNATIONAL TRANSACTIONS.

To the extent practicable, the Federal Government shall observe the following principles in an international context to enable commercial electronic transaction:

(1) Remove paper-based obstacles to electronic transactions by adopting relevant principles from the Model Law on Electronic Commerce adopted in 1996 by the United Nations Commission on International Trade Law (UNCITRAL).

(2) Permit parties to a transaction to determine the appropriate authentication technologies and implementation models for their transactions, with assurance that those technologies and implementation models will be recognized and enforced.

(3) Permit parties to a transaction to have the opportunity to prove in court or other proceedings that their authentication approaches and their transactions are valid.

(4) Take a nondiscriminatory approach to electronic signatures and authentication methods from other jurisdictions.

#### SEC. 7. STUDY OF LEGAL AND REGULATORY BARRIERS TO ELECTRONIC COMMERCE.

(a) **BARRIERS.**—Each Federal agency shall, not later than 6 months after the date of enactment of this Act, provide a report to the Director of the Office of Management and Budget and the Secretary of Commerce identifying any provision of law administered by such agency, or any regulations issued by such agency and in effect on the date of enactment of this Act, that may impose a barrier to electronic transactions, or otherwise to the conduct of commerce online or by electronic means. Such barriers include, but are not limited to, barriers imposed by a law or regulation directly or indirectly requiring that signatures, or records of transactions, be accomplished or retained in other than electronic form. In its report, each agency shall identify the barriers among those identified whose removal would require legislative action, and shall indicate agency plans to undertake regulatory action to remove such barriers among those identified as are caused by regulations issued by the agency.

(b) **REPORT TO CONGRESS.**—The Secretary of Commerce, in consultation with the Director of the Office of Management and Budget, shall, within 18 months after the date of enactment of this Act, and after the consultation required by subsection (c) of this section, report to the Congress concerning—

(1) legislation needed to remove barriers to electronic transactions or otherwise to the conduct of commerce online or by electronic means; and

(2) actions being taken by the Executive Branch and individual Federal agencies to remove such barriers as are caused by agency regulations or policies.

(c) **CONSULTATION.**—In preparing the report required by this section, the Secretary of Commerce shall consult with the General Services Administration, the National Archives and Records Administration, and the Attorney General concerning matters involving the authenticity of records, their storage and retention, and their usability for law enforcement purposes.

(d) **INCLUDE FINDINGS IF NO RECOMMENDATIONS.**—If the report required by this section omits recommendations for actions needed to fully remove identified barriers to electronic transactions or to online or electronic commerce, it shall include a finding or findings, including substantial reasons therefore, that such removal is impracticable or would be inconsistent with the implementation or enforcement of applicable laws.

It was decided in the { Yeas ..... 126  
negative ..... Nays ..... 278

¶129.20

[Roll No. 578]

AYES—126

Abercrombie	Hall (OH)	Oberstar
Ackerman	Hastings (FL)	Obey
Allen	Hilliard	Olver
Andrews	Hinchey	Ortiz
Baldacci	Hinojosa	Pallone
Baldwin	Hoeffel	Pastor
Barrett (WI)	Hoyer	Paul
Becerra	Jackson (IL)	Phelps
Berman	Kanjorski	Pomeroy
Blagojevich	Kaptur	Rahall
Boniior	Kennedy	Rangel
Borski	Kildee	Reyes
Brady (PA)	Kilpatrick	Rivers
Brown (OH)	Klecicka	Rothman
Capps	Klink	Roybal-Allard
Capuano	Kucinich	Rush
Cardin	LaFalce	Sabo
Clayton	Lampson	Sanders
Clyburn	Lantos	Sawyer
Conyers	Lee	Schakowsky
Costello	Levin	Scott
Coyne	Lewis (GA)	Serrano
Danner	Lipinski	Slaughter
DeFazio	Lowe	Smith (MI)
DeGette	Luther	Spratt
Delahunt	Maloney (NY)	Stark
DeLauro	Markey	Strickland
Dicks	Martinez	Stupak
Dingell	Mascara	Tierney
Dixon	McCarthy (MO)	Towns
Doyle	McDermott	Turner
Duncan	McGovern	Velazquez
Edwards	McKinney	Vento
Engel	McNulty	Viscosky
Eshoo	Meehan	Waters
Evans	Menendez	Watt (NC)
Farr	Miller, George	Waxman
Fattah	Mink	Weiner
Filner	Moakley	Wexler
Frank (MA)	Mollohan	Wise
Green (TX)	Nadler	Woolsey
Gutierrez	Neal	Wynn

NOES—278

Aderholt	Combest	Gordon
Archer	Condit	Goss
Armey	Cook	Graham
Bachus	Cooksey	Granger
Baird	Cox	Green (WI)
Baker	Cramer	Greenwood
Ballenger	Crane	Gutknecht
Barcia	Crowley	Hall (TX)
Barr	Cubin	Hansen
Barrett (NE)	Cunningham	Hastings (WA)
Bartlett	Davis (FL)	Hayes
Barton	Davis (VA)	Hayworth
Bass	Deal	Hefley
Bateman	DeLay	Herger
Bentsen	DeMint	Hill (IN)
Bereuter	Deutsch	Hill (MT)
Berkley	Diaz-Balart	Hilleary
Biggert	Doggett	Hobson
Bilbray	Dooley	Hoekstra
Bilirakis	Doolittle	Holden
Bishop	Dreier	Holt
Biiley	Dunn	Hoolley
Blumenauer	Ehlers	Horn
Blunt	Ehrlich	Hostettler
Boehlert	Emerson	Houghton
Boehner	English	Hulshof
Bonilla	Etheridge	Hunter
Bono	Everett	Hyde
Boswell	Ewing	Inlee
Boucher	Fletcher	Isakson
Boyd	Foley	Istook
Brady (TX)	Forbes	Jenkins
Brown (FL)	Ford	John
Bryant	Fossella	Johnson (CT)
Burr	Fowler	Johnson, Sam
Burton	Franks (NJ)	Jones (NC)
Buyer	Frelinghuysen	Kasich
Callahan	Frost	Kelly
Calvert	Gallegly	Kind (WI)
Camp	Ganske	Kingston
Campbell	Gejdenson	Knollenberg
Canady	Gekas	Kolbe
Cannon	Gibbons	Kuykendall
Castle	Gilchrest	LaHood
Chabot	Gillmor	Larson
Chambliss	Gilman	Latham
Chenoweth-Hage	Gonzalez	LaTourette
Clement	Goode	Lazio
Coble	Goodlatte	Leach
Collins	Goodling	Lewis (CA)